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U.S. Department of Justice

Immigration and Naturalization Service

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OFFICE OF ADMINISTRATIVE APPEALS
425 Eye Street N.W.
ULLB, 3rd Floor
Washington, D.C. 20536

FILE: SRC01 098 51006 Office: Texas Service Center

Date: MAY 09 2002

IN RE: Petitioner:
Beneficiary:

APPLICATION: Petition for Alien Fiancé(e) under Section 101(a)(15)(K) of the
Immigration and Nationality Act, 8 U.S.C. 1101(a)(15)(K)

IN BEHALF OF APPLICANT:

INSTRUCTIONS:

This is the decision in your case. All documents have been returned to the office which originally decided your case. Any further inquiry must be made to that office.

If you believe the law was inappropriately applied or the analysis used in reaching the decision was inconsistent with the information provided or with precedent decisions, you may file a motion to reconsider. Such a motion must state the reasons for reconsideration and be supported by any pertinent precedent decisions. Any motion to reconsider must be filed within 30 days of the decision that the motion seeks to reconsider, as required under 8 C.F.R. 103.5(a)(1)(i).

If you have new or additional information which you wish to have considered, you may file a motion to reopen. Such a motion must state the new facts to be proved at the reopened proceeding and be supported by affidavits or other documentary evidence. Any motion to reopen must be filed within 30 days of the decision that the motion seeks to reopen, except that failure to file before this period expires may be excused in the discretion of the Service where it is demonstrated that the delay was reasonable and beyond the control of the applicant or petitioner. Id.

Any motion must be filed with the office which originally decided your case along with a fee of \$110 as required under 8 C.F.R. 103.7.

FOR THE ASSOCIATE COMMISSIONER,
EXAMINATIONS

Robert P. Wiemann, Director
Administrative Appeals Office

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DISCUSSION: The nonimmigrant visa petition was denied by the director, Texas Service Center, and is before the Associate Commissioner for Examinations on appeal. The appeal will be dismissed.

The petitioner is a native and citizen of the United States. The beneficiary is a native and citizen of India. The director denied the petition after determining that the petitioner and the beneficiary had not met each other within the two-year period prior of the date the visa petition was filed.

On appeal, counsel states that the petitioner met the beneficiary in India when she was still married. Now she has divorced her prior husband and has had a long-standing friendship with the beneficiary. Counsel states that she is unable to travel to India to see him due to financial hardship and the difficulty of travelling with her two young children. Counsel requests that the petition be granted as the personal meeting only missed the two-year cut off by four weeks. The record reflects that three years and one month elapsed between the alleged meeting date of January 1998 and the filing date of the petition, February 2001.

Section 101(a)(15)(K) of the Immigration and Nationality Act (the Act), 8 U.S.C. 1101(a)(15)(K), provides nonimmigrant classification to the fiancé(e) of a U.S. citizen who intends to conclude a valid marriage with that citizen within 90 days after entry. Before approving a petition for this classification, the Service must review the information and evidence in the petition and determine that the parties intend to enter into a bona fide marriage.

Section 214(d) of the Act, 8 U.S.C 1184(d), provides that the petitioner must establish that he or she and the beneficiary have met in person within two years immediately before the petition is filed.

8 C.F.R. 214.2(k)(2), the petitioner may be exempted from this requirement for a meeting if it is established that compliance would:

- (1) result in extreme hardship to the petitioner;
or
- (2) that compliance would violate strict and long-established customs of the beneficiary's foreign culture or social practice, as where marriages are traditionally arranged by the parents of the contracting parties and the prospective bride and groom are prohibited from meeting subsequent to the arrangement and prior to the wedding day. In addition to establishing that the required meeting would be a violation of custom or practice, the petitioner must also establish that any and all other aspects of the traditional

arrangements have been or will be met in accordance with the custom or practice.

The burden is on the petitioner to provide satisfactory evidence that extreme hardship would be imposed on her to comply with the two-years requirement.

The burden is on the petitioner to provide satisfactory evidence of the existence of such circumstances. It is concluded the petitioner has not provided adequate reasons why the two-year requirement stipulated by law should be waived.

ORDER: The appeal is dismissed.